

Committee on Resources

Subcommittee on National Parks & Public Lands

Witness Statement

Testimony on
Utah West Desert Land Exchange Act of 2000-H.R. 4579
Governor Michael O. Leavitt, State of Utah
House Subcommittee on National Parks, Forests and Lands
The Honorable James V. Hansen, Chairman
June 13, 2000

Good morning, Mr. Chairman, thank you for allowing me the opportunity to speak to you today about the exchange of Utah School Trust Lands located within Wilderness Study Areas of the West Desert Region of Utah. This exchange is the second land exchange on which we have reached agreement with the US Department of Interior. It is another important step in consolidation of our scattered school trust lands. The current agreement was consummated because it brings significant benefits to the federal government and the State of Utah. I will frame my remarks in terms of these benefits, trying carefully to help you understand why I believe this legislation is prudent state and federal public policy.

The Problem

First, it is always useful to restate the problem. Our enabling legislation granted Sections 2, 16, 32, and 36 of each 36-square-mile township to the state upon statehood. This means that are thousands of square mile blocks of school trust lands distributed all around Utah. These lands were specifically granted to Utah for the support of the common schools. By law, these lands must be managed to generate revenue for Utah's school children. While the scattered pattern created one problem for state land managers, subsequent federal designations created another difficulty.

More than 20 years ago, the Department of Interior created Wilderness Study Areas throughout the State of Utah. The boundaries of these study areas surround approximately 300-400 thousand acres of Utah's school trust land. This creates two competing management missions: the BLM is charged with preserving the wilderness characteristics of these lands; while Utah's trust land managers are charged with maximizing their profit potential. Because these school trust lands are scattered in a checkerboard pattern, neither the federal government nor state land managers can accomplish these missions effectively. The problem was recently exacerbated when Secretary Babbitt requested additional wilderness inventories and initiated a Federal Planning Process under Section 202 of FLMPA to study the creation of additional Wilderness Study Areas.

The Agreement

The entire exchange is of approximately equal value. The federal government receives 175 parcels of state lands within the West Desert Region of Utah within Wilderness Study Areas and these new 202 inventory

units. The federal government also receives 480 acres within the Red Desert Tortoise Reserve. In total, the federal government receives over 106,000 acres of surface and mineral-rights-only acreage.

The State of Utah receives 17 blocks of land which are closer to roads and communities where development is more appropriate. The total of these land is also approximately 106,000 acres.

The Benefits

The State of Utah and Secretary of Interior entered into these negotiations with a desire to (1) protect the land and the environment where appropriate; (2) improve the efficient management of the land; and, (3) consummate a fair and equitable exchange. HR 4579 accomplishes all of these.

The exchange protects the land and the environment where it is appropriate. You should know that since these school trust lands are within potential wilderness areas many of them are of substantial scenic value and possess many of the wilderness characteristics similar to the adjacent lands; they are precious lands, deserving of special management considerations. Once exchanged, these lands will be a tremendous asset to the American people. They will be able to be managed like the adjacent lands without a competing management objective. No longer will there be the threat of a development within or adjacent to these proposed wilderness units. The American public will be assured of access to and protection of these prime recreation and preservation lands.

These are not just ordinary lands, although valuation of these state trust lands for exchange purposes has focused on their value for grazing, mineral development or sale for recreational uses such as cabin sites, the state lands have also been recognized by the BLM and the environmental community as having significant scenic, scientific, cultural, and biological values meriting their protection as wilderness or, in the case of the Red Cliffs Desert Reserve, as a biological preserve for threatened and endangered species.

Let me give you just a few examples of some of the lands the American public will receive in this exchange:

Beaver Dam Wilderness - 1,191.21 state acres

A part of the Mojave ecosystem, Beaver Dam Wash is home to several reptiles found nowhere else in Utah. These include the desert iguana, the desert night lizard, speckled and sidewinder rattlesnakes, and the Gila monster. Forests of Joshua trees and the presence of the endangered desert tortoise add to both the scenic and scientific value.

Black Ridge WSA - 1,920.00 state acres

Sharing a seven mile border with Zions National Park, this area is comprised of the pristine Hurricane Cliffs, Black Ridge, and the colorful western edge of Smith Mesa. Vegetation varies from cottonwoods and desert willows to dense piñon and juniper woodland.

Canaan Mountain WSA - 5,608.50 state acres plus an additional 560.00 acres of state mineral-only lands :

This area has outstanding recreational values. Spectacular views of Zions National Park, Canaan Mountain, Elephant Butte, and Eagle Crags substantially enhance the experience of hikers, horseback

riders, and backpackers.

Deep Creek Mountains WSA - 12,325.46 state acres plus 2,560.00 state mineral-only

"Rising from the desert floor at an elevation of 4,800 feet to peaks over 12,000 feet high, the Deep Creek Mountains are indisputably Utah's most spectacular West Desert Range." Wilderness at the Edge. The Bonneville Cutthroat Trout, which has been nominated for protection under the Endangered Species Act, is native to this area. Ancient bristlecone pines, bare granite, the rare giant stonefly, and a rare variety of blue grouse all contribute to the scenic and scientific value of this range.

King Top WSA - 9,906.64 state acres

The BLM has identified Fossil Mountain within this unit as one of the world's most important collection sites for Lower Ordovician fossils. This area is home to the peregrine falcon, the bald eagle, and the golden eagle, all sensitive species.

Notch Peak WSA - 8,241.07 state acres

The immense west face of Notch Peak has been referred to as "the desert equivalent of Yosemite's El Capitan." Its' rise of almost 4,450 feet makes it one of the highest cliffs in North America. It also serves as habitat for two species of wild buckwheat and a milkvetch, all of which are candidates for listing as threatened or endangered species.

Pilot Peak - 3,879.92 state acres:

Views from the Pilot Range are spectacular. Excellent elk and deer habitat exists in the range. Bettridge Creek, the largest stream in the area, supports the threatened Lahontan cutthroat trout.

Silver Island WSA - 5,760.84 state acres

During the Pleistocene Epoch the Silver Island Mountains were an island in the giant Lake Bonneville. "Today, as one looks across the Great Salt Lake Desert from Interstate 80 in the heat of summer, the entire range seems to float on a shimmering mirage, giving currency to its name." Wilderness at the Edge. Conversely, the views from the tops of the mountains over the desert are spectacular, taking in the enormous expanse of the salt flats and range after range of the Great Basin topography.

Swasey Mountain WSA - 11,612.74 state acres

According to a Smithsonian Institution Report, the Antelope Springs Trilobite Beds in this area are "the most outstanding field for gathering fossils of the Cambrian geologic era in Utah and one of the most outstanding fields in the United States."

Red Cliffs Desert Reserve - 483.28 acres

The Red Cliffs Desert Reserve is a scenic desert area north of St. George, Utah dedicated to the protection of the threatened Mojave desert tortoise and other rare or sensitive species of wildlife.

On the other hand, the lands transferred to the state were specifically chosen with a sensitivity to environmental concerns. State and federal negotiators did not include lands that are areas of critical

environmental concern, potential wilderness, or habitat for endangered species. All of the lands exchanged to the state will still be fully subject to all environmental laws applicable to resource development.

There is one particular block of land, the LaVerkin Block, which has received substantial comment and concern. I would like to address this issue. I wrote a letter several years ago supporting the concept of a scenic corridor outside Zion National Park. Many feel this area includes the LaVerkin Block. Scenic views along this corridor are critical to the experience of visitors entering the park. However, this statement doesn't mean that I said then nor now that there should **not be any development whatsoever** in that corridor. We believe careful development is possible in the corridor which will not compromise the scenic views we all want to protect. As a demonstration of this commitment to protect this critical viewshed, the Secretary and I agreed to a compromise which has removed over 600 acres of the LaVerkin Block from the exchange. This compromise will protect the scenic corridor as viewed from State Highway 9 toward Zion National Park.

Under the compromise, the School and Institutional and Trust Lands Administration (SITLA) will acquire the large block "inside the loop" that is generally south of Highway 9 and west of the La Verkin Overlook Road, and two 40 acre blocks (a total of slightly over 300 acres out of over 900 initially). The State and the Department of Interior believe that this would be entirely consistent with the BLM Resource Management Plan for the area.

In addition, SITLA has agreed they will not develop any of the acquired lands until a master plan has been completed for the properties, the interspersed private land, and an existing state land block. SITLA will work with the City of LaVerkin and Washington County to prepare the master plan, and has agreed to comply with any and all zoning decisions made by the City will not allow commercial development along the main highway. In addition, the State is willing to participate in or help facilitate a multi-jurisdictional corridor planning effort to plan for the long-term preservation and appropriate development of the corridor.

I want to assure you the State of Utah will be sensitive to local needs as this tract is developed, and will comply with, and participate in, local planning and zoning decisions. Also, you can be assured the scenic views at the entrance to Zion National Park will be protected to the maximum extent practicable.

The exchange improves the efficient management of the lands. Consolidation of these lands for management purposes has been a longstanding goal for public land managers. The checkerboard pattern may have made sense in the 1800s when it was believed that virtually all federal and state lands would eventually be sold to private interests providing revenues to support the common schools and a tax base for state and local government. The federal Homesteading Act of 1864 and Desert Land Entry Act of 1877 were indicative of this thinking. But over the years federal land policies have changed from disposition to retention, leaving the checkerboard pattern largely in place. As a result, a logical state and federal management policy cannot exist. This exchange consolidates valuable assets both nationally and locally, providing both entities with a more sensible management task.

The exchange is fair and equitable. The State of Utah and the federal government receive approximately equal value from the exchange. No single individual, corporation, or geographic area is unduly harmed or benefitted. The federal budget has no fiscal impact, and the valid existing rights of permittees, such as ranchers with grazing rights, are protected. The primary benefactor is the public - both nationally and locally. Let me now say something about the valuation of lands, as I know this is an important issue.

When this process began the State of Utah and the Department of Interior knew the size of the proposed

exchange - originally over 200,000 acres contained in more than 200 individual tracts - made complete appraisals of each individual tract impractical and far too expensive when compared to the relatively low values of most tracts. Instead, the parties went through a process of valuing the lands - including conducting comparable sale analysis as used in standard appraisals - to ensure the values were approximately equal, while avoiding unnecessary expense and delays. A formal appraisal was used for one valuable parcel - the Red Cliffs Desert Reserve tract in Washington County - because the land was the subject of a recent appraisal approved by the BLM.

The State first identified all of the trust lands to be offered in the exchange, and conducted an internal evaluation process for those lands based upon factors such as topography, mineral potential and leasing history, access, and comparable land sales in the area. BLM independently developed estimates of value for those same lands based upon its comparable sales database. When the State and BLM's independent value estimates were compared for the first time, the difference was less than 20% overall.

The process then turned to the lands the state wished to acquire. This valuation process required considerably more effort because some of the lands the State was looking at had potential for future development. BLM has an extensive database of comparable land sales within Utah, and initially identified 139 comparable sales for use in the valuation process. The State of Utah also has a substantial comparable sale database created as a result of the State's active land sale program, through which trust lands statewide are auctioned several times per year. Comparable sales from recent state auctions were considered as a good indicator of market value. The overwhelming majority of the comparable sales used came from the BLM appraisal database. For mineral properties additional techniques and analysis were utilized.

For surface lands, the average price agreed upon for the state lands committed to the exchange outside of Washington County is approximately \$85/acre, ranging from an average of \$47/acre in some areas in Millard County to an average of \$234/acre for state lands with high recreational sale potential in Beaver County. Both sides believe these values are reasonable and well-supported by comparable sales from the state auction program.

The lands in Washington County (St. George) presented some difficulties and concern over valuation because of the active nature of the real estate market there compared to lands in other more rural counties and the significantly higher values for both the state and federal land. In Washington County, the average price attributed to state lands, other than the Red Cliffs Desert Reserve Parcel, was approximately \$500 per acre. Finally, the 483 acre Red Cliffs Desert Reserve Parcel owned by the State was formally appraised by BLM at \$6 million, or \$12,422 per acre. This high value is attributable to its location within a master-planned community proposal in the city limits of St. George.

As exchange negotiations continued, state and federal tracts were deleted for various reasons, including avoidance of environmentally sensitive lands, valuation disagreements between the parties, and local concerns. Prior to finalizing the exchange agreement, the parties made additional final adjustments to the lands to be conveyed by each side, based upon the need to equalize value and, in some cases, local and environmental concerns that led to certain lands being removed from the exchange package. As finalized, the parties estimate that the lands on each side of the exchange are worth approximately \$20 million.

While it may be possible to second-guess the estimated value of individual tracts, it is the entire package which must be the focus of the valuation determination, not one or another separate part. Both the State of Utah and the Department of the Interior believe the lands on each side of the exchange, **taken as a whole**, are approximately equivalent in value. This mutual conclusion is based not only upon analysis of hundreds

of comparable sales, but also on the professional judgment of experienced state and federal land managers. In light of the significant public benefits of the exchange - acquisition by the American public of over 100,000 acres of outstanding wilderness lands and elimination of substantial land management disputes - the proposed exchange is a fair and reasonable deal for both the United States and the schoolchildren of Utah.

A complete copy of a memorandum paper explaining in more detail the valuation methodology is attached.

Conclusion

Since the beginning of Statehood, the State of Utah has struggled with the management of 3 million acres of our scattered school trust lands. It was during my administration, and with your support, that we successfully exchanged 400,000 acres of land locked within National Monuments and National Parks. This legislation presents a rare opportunity to continue this vision and exchange process. We have learned we cannot do it all at once because it is too complicated. But, we can do it piece by piece working on the most sensitive lands first. I ask for your support in consummating this agreement. The agreement is fair and equitable; it helps reduce tensions from longstanding disputes between Utah and the federal government; it provides the American people with priceless land assets that can be managed for national purposes; and it will enable logical and efficient management of Wilderness Study Areas. If the process of exchange does not continue, frustrations will mount and management conflicts over wilderness will be exacerbated. The consequences will not be healthy for the land. Please remember, we are compelled by the Utah Enabling Act and other state statutes to attempt to receive revenue and value for these lands.

Now is the time to look across the table and agree that a fair and equal value exchange that meets the scrutiny of the Department of Interior and the State of Utah is sound policy for all Americans. Thank you.

Utah West Desert Wilderness Land Exchange Act of 2000

H.R. 4579

Land Valuation Process

The Utah West Desert Wilderness Land Exchange was originally intended to ensure that all state school trust lands within areas proposed for federal wilderness designation in the Utah National Parks and Public Lands Wilderness Act of 1999 (H.R. 3035) would be exchanged contemporaneously with the designation of the wilderness areas. History has shown that if exchange of state trust lands does not occur at the time restrictive land use designations are imposed on surrounding federal lands, exchange of school trust inholdings out of these areas becomes a less urgent priority for federal land managers. Because federal and state law requires that school trust lands be managed to generate revenue for public education, the inclusion of trust lands in restrictively-managed federal reservations such as wilderness creates land management conflicts for the United States and diminishes revenues for Utah's public schools. The State of Utah and the Department of the Interior therefore agreed that a comprehensive land exchange should accompany their compromise proposal for designation of wilderness in the West Desert region of Utah.

The parties initially determined that the size of the proposed exchange - over 200,000 acres contained in more than 200 individual tracts -- made complete appraisals of each individual tract impractical and far too expensive when compared to the relatively low values of most tracts. Instead, the parties went through a process of valuing the lands - including conducting comparable sale analysis as used in standard appraisals - to ensure that values were approximately equal, while avoiding unnecessary expense and delays. A formal

appraisal was used for one valuable parcel -- the Red Cliffs Desert Reserve tract in Washington County -- because the land was the subject of a recent appraisal which had already been reviewed and approved by the BLM and the State.

The State first identified all of the trust lands to be offered in the exchange, and conducted an internal evaluation process for those lands based upon factors such as topography, mineral potential and leasing history, access, and comparable land sales in the area. The State then estimated surface value. BLM independently developed estimates of value for those same lands based upon its comparable sales database, but grouped lands as part of the larger geographic areas proposed for wilderness (e.g. all lands in the Deep Creek mountains were assigned an average value). When the State's and BLM's independent value estimates were compared for the first time, the difference was less than 20% overall.

The process then turned to the lands the state wished to acquire. This valuation process required considerably more effort, because some of the lands that the state was looking at had potential for future development. BLM has an extensive database of comparable land sales within Utah, and initially identified 139 comparable sales for use in the valuation process. The State of Utah also has a substantial comparable sale database created as a result of the State's active land sale program, through which trust lands statewide are auctioned several times per year. Comparable sales from recent state auctions were considered as a good indicator of market value. Comparable sales were available from each county with state acquisition targets in it. As always, some sales were more relevant than others in terms of attributes and location. The overwhelming majority of the comparable sales came from the BLM appraisal database. Within Washington County, a number of comparable sales were also provided by an independent appraiser working for BLM on a contract basis. Both of these extensive databases were used in the valuation discussions for both the state and the federal lands.

Exchange negotiations continued, and both state and federal tracts were deleted for various reasons, including avoidance of environmentally sensitive lands, valuation disagreements between the parties, and local concerns. When it became apparent that the associated wilderness bill (H.R. 3035) was unlikely to be enacted for other reasons, the State and DOI determined that it would be in the best interests of both the State and the United States to complete the exchange in its own right. The State lands to be exchanged to the United States are within existing wilderness study areas or lands formally identified by BLM as having wilderness characteristics sufficient to justify WSA status. Exchange of these lands will solve existing land management disputes involving trust lands within WSAs, and prevent similar disputes in the future for lands identified as being suitable for future WSA designation. In addition to trust lands in current or proposed WSAs, the State will also convey trust lands in the Congressionally-designated Beaver Dam Wash Wilderness, and a tract within the Red Cliffs Desert Reserve, a preserve for the Mojave Desert tortoise and other threatened and endangered species near St. George, Utah.

Once the parties determined which State lands were to be conveyed to the United States, they worked to finalize the value of the state's acquisition targets. Comparable sales were analyzed in more detail for each target. As always, these comparables contained great variability in terms of date of sale, size, zoning, and highest and best use. In many cases, the comparable sales represented considerably smaller tracts of land, so the per acre value of the targets was likely to be lower than that of the comparable. Size adjustments were therefore made, reflecting lower per acre values as tracts increase in size - a standard valuation technique. In some cases, this was offset by the fact that the sales were several years old. Based on this information, a range of acceptable values for each target was agreed to by both parties.

At this point, the rough estimates of value for the State inholdings were reviewed and compared against the

range of values for the acquisition targets. Some discrepancies were found, and adjustments were made to provide consistency of values over similar federal and state tracts in close proximity. The likely future use of the federal tracts being acquired by the State was also carefully considered. The majority of land being acquired by the state is remote agricultural or grazing land with no likelihood of non-agricultural development in the near term. Valuation of these lands -- particularly the Milford, Oak City, and Tintic tracts -- presented fewer problems than those where development might be possible. On properties with particularly high per acre value estimates, or where highest and best use determinations indicated development potential supported by higher comparable sales data, more in-depth analysis of such factors as slope, utilities, and access was required. Where comparable sales indicated values based on "developable acres," adjustments were made to reflect the percentage of a tract that was considered developable. The parties also considered the impact on value of encumbrances created by BLM that must be assumed by the State without compensation once title transfers, such as Recreation and Public Purpose (R&PP) leases and unpatented mining claims.

The State and DOI also considered mineral values on both state and federal lands. Many of the West Desert mountain ranges where the State lands are located are known to be mineralized, and have attracted past and current interest in mineral development. Each party had internal geologic experts conduct technical evaluations of these lands, and published reports of the U.S. Geological Survey concerning the mineral potential of existing WSAs were also considered in establishing areas of high mineral potential on state lands. Based upon the results of those examinations, value was added, on a per acre basis, to the State's inholdings, and to the offered lands which consisted solely of mineral estate, with an average value of approximately \$10/acre and a maximum (in the case of fewer than a dozen tracts) of \$50/acre.

Two state acquisition targets -- Brush Wellman and Continental Lime -- contain known mineral reserves, although all of these tracts are subject to valid mining claims located under the Mining Law of 1872. Although the State must assume the burden of these claims upon conveyance of these tracts, it agreed to valuation of the lands based upon a discounted cash flow (DCF) analysis as if the claims did not exist. The DCF analysis was created by BLM based upon proprietary information in BLM's files. In the case of the Brush Wellman tract, it should be noted that many of the lands within the tract are subject to grandfathered patent applications under the Mining Law of 1872, and will be subject to conveyance by the United States to the company for nominal consideration within months if the West Desert exchange is not completed. None of the lands being acquired by the State of Utah are currently generating mineral revenue for the United States from hard-rock mining, and there is no current or projected future development of oil or gas from either state or federal exchange lands.

For surface lands, the average price agreed upon for the state lands committed to the exchange outside of Washington County is approximately \$85/acre, ranging from an average of \$47/acre in some areas in Millard County to a \$234/acre average for state lands with high recreational sale potential in Beaver County. Both sides believe that these values are reasonable and well-supported by comparable sales from the state auction program.

Washington County (St. George) presented some difficulties and concern over valuation because of the active nature of the real estate market there compared to lands in other more rural counties, and because of significantly higher values for both the state and federal land. In Washington County, the average price attributed to state lands, other than the Red Cliffs Desert Reserve parcel, was approximately \$500 per acre. For selected federal lands, a tract in the Warner Valley was valued at \$1000 per acre based upon an MAI appraisal of directly adjacent and similar lands, while the additional 420 acres of federal lands in Washington County selected by the state were on average valued substantially higher. Finally, the 483 acre

Red Cliffs Desert Reserve Parcel owned by the State was formally appraised by BLM at \$6 million, or \$12,422 per acre, with the high value attributable to its being located within the city limits of St. George and having been part of a master-planned community proposal.

Prior to finalizing the exchange agreement, the parties made final adjustments to the lands to be conveyed by each side, based upon the need to equalize value and, in some cases, local and environmental concerns that certain lands be removed from the exchange package. As finalized, the parties estimate that the lands on each side of the exchange are worth approximately \$20 million.

In conclusion, while it may be possible to second-guess the estimated value of individual tracts, it is the entire package which must be the focus of the valuation determination, not one or another separate part. Both the State of Utah and the Department of the Interior believe that the lands on each side of the exchange, **taken as a whole**, are approximately equivalent in value. This mutual conclusion is based not only upon analysis of hundreds of comparable sales, but also on the professional judgment of experienced state and federal land managers. In light of the significant public benefits of the exchange - acquisition by the American public of over 100,000 acres of outstanding wilderness lands and elimination of substantial land management disputes - the proposed exchange is a fair and reasonable deal for both the United States and the schoolchildren of Utah.

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